

EXHIBIT A

PART 1

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FACEBOOK, INC.,

Plaintiff,

v.

STUDIVZ LTD., HOLTZBRINCK
NETWORKS GmbH,
HOLTZBRINCK VENTURES
GmbH, and DOES 1-25,

Defendants.

Case No. 5:08-CV-03468 JF

Assigned To: Honorable Jeremy Fogel

**STUDIVZ LTD.'S RESPONSES TO
FACEBOOK, INC.'S FIRST SET OF
REQUESTS FOR ADMISSION**

Complaint Filed: July 18, 2008

PROPOUNDING PARTY: FACEBOOK, INC.

RESPONDING PARTY: STUDIVZ LTD.

SET NUMBER: ONE

I. GENERAL OBJECTIONS

A. StudiVZ objects to the Requests for Admission (“RFAs”) on the grounds that Facebook seeks the right to use evidence obtained in this action in the action pending between Facebook and StudiVZ in Germany (the “German Action”). It is improper under established law to use this lawsuit or this Court as vehicles to obtain discovery for use in a foreign case when that evidence is located outside the United States, as it is here. It is also inconsistent with the District Court’s form protective order. StudiVZ will only produce evidence pursuant to a protective order specifying that the evidence is not specifically authorized to be used in any other court.

B. StudiVZ objects to the RFAs on the grounds that they seek discovery that is not reasonably related to pertinent disputed personal jurisdictional or *forum non conveniens* issues, which is improper given that there are currently pending motions to dismiss all defendants for lack of personal jurisdiction and *forum non conveniens*.

C. StudiVZ objects to the RFAs on the grounds that they would require violation of the privacy rights of its employees and its customers as embodied in German and European Union law, including but not limited to the German Constitution, the German Federal Data Protection Act (BDSG), the German Telecommunications Act (TKG), the German Tele Services Data Protection Act (TDDSG), the European Community Data Protection Directive 95/46/EC, Data Protection Directive for Electronic Communication 2002/58/ED and the E-Commerce Directive 2000/31/EC.

1 D. StudiVZ objects to the RFAs on the grounds that the definition of
2 “STUDIVZ,” “YOU,” and “YOUR” includes StudiVZ’s “directors, officers,
3 subsidiaries, predecessors, successors, assigns, agents, servants, employees,
4 investigators, attorneys, AND ALL other persons and entities representing it acting
5 on its behalf, OR purporting to act on its behalf, including without limitation,
6 Ehassan Dariani and Dennis Bemann.” This is improperly overbroad generally
7 and is particularly so given that the discovery purports to relate to personal
8 jurisdiction, since in establishing jurisdiction discovery must be directed at the
9 party only.

10
11 E. StudiVZ objects to the RFAs on the grounds that their gross
12 overbreadth would require StudiVZ to incur an unreasonable amount of expense
13 and time to search for documents that may be necessary to answer the RFAs.

14
15 F. StudiVZ objects to the RFAs to the extent they seek information that is
16 protected from disclosure by the attorney-client privilege, the attorney work product
17 doctrine, the right of privacy and/or any other applicable privileges, doctrines, or
18 immunity from disclosure.

19
20 G. StudiVZ further objects to the RFAs to the extent they attempt or
21 purport to impose obligations on StudiVZ beyond those set forth in the Federal
22 Rules of Civil Procedure and the Hague Convention of 18 March 1970 on the
23 Taking of Evidence Abroad in Civil or Commercial Matters (“Hague Evidence
24 Convention”) as interpreted and enforced under German law. All definitions and
25 instructions will be treated as having no force or effect to the extent they purport to
26 impose obligations on StudiVZ beyond those set forth in the Federal Rules of Civil
27 Procedure or the Hague Evidence Convention as interpreted and enforced under
28 German law.

1 **REQUEST FOR ADMISSION NO. 1:**

2 Admit that YOU accessed the FACEBOOK WEBSITE while designing at
3 least one of the STUDIVZ WEBSITES.

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 1:**

5 StudiVZ hereby incorporates by reference the general objections set forth
6 above. StudiVZ further objects to this RFA on the grounds that a plaintiff is not
7 entitled to take discovery on personal jurisdiction as a matter of right. In order to
8 do so, Facebook must either make a *prima facie* showing of jurisdiction over
9 StudiVZ, or it must identify material jurisdictional issues that are in dispute.
10 Facebook has done neither. StudiVZ further objects to this RFA on the grounds
11 that the definitions of “YOU” and “STUDIVZ WEBSITES” are grossly overbroad.
12 StudiVZ further objects to this RFA on the grounds that it is unlimited as to time,
13 and is so overbroad as to be unduly burdensome and harassing. StudiVZ further
14 objects to this RFA on the grounds that it seeks information that is not relevant nor
15 reasonably calculated to lead to the discovery of admissible evidence.

16 StudiVZ further objects to this RFA on the grounds that, in granting in part
17 Facebook’s request for a continuance on the hearing for StudiVZ’s Motion to
18 Dismiss for lack of personal jurisdiction and *forum non conveniens*, the District
19 Court made its decision based upon the then-pending discovery requests. Likewise,
20 StudiVZ did not oppose Facebook’s request to continue the hearing on the personal
21 jurisdiction portion of StudiVZ’s Motion to Dismiss based upon the existing
22 discovery and the disputes related thereto. Had Facebook been upfront with the
23 Court and StudiVZ and disclosed the fact that Facebook secretly planned to
24 propound six additional sets of discovery (including more document demands to
25 StudiVZ than had been propounded before) a few days after the Court issued its
26 ruling, StudiVZ would have opposed Facebook’s request to continue even the
27 personal jurisdiction portion of StudiVZ’s Motion to Dismiss, and StudiVZ
28 believes that the Court would have ruled differently and would have denied all of

1 the relief requested by Facebook. StudiVZ further objects to this RFA on the
2 grounds that Facebook has failed to explain (1) why this RFA was not propounded
3 over four months ago (when Facebook propounded its other discovery), and (2) why
4 StudiVZ should have to respond to an RFA the response to which would have been
5 due long after the original hearing date of StudiVZ's Motion to Dismiss, which
6 hearing date was selected in consultation with Facebook so that Facebook would
7 have many months to take jurisdictional discovery.

8
9 **REQUEST FOR ADMISSION NO. 2:**

10 Admit that YOU have accessed or have had access to COMPUTER CODE
11 for the FACEBOOK WEBSITE.

12 **RESPONSE TO REQUEST FOR ADMISSION NO. 2:**

13 StudiVZ hereby incorporates by reference the general objections set forth
14 above. StudiVZ further objects to this RFA on the grounds that a plaintiff is not
15 entitled to take discovery on personal jurisdiction as a matter of right. In order to
16 do so, Facebook must either make a *prima facie* showing of jurisdiction over
17 StudiVZ, or it must identify material jurisdictional issues that are in dispute.
18 Facebook has done neither. StudiVZ further objects to this RFA on the grounds
19 that it is compound. StudiVZ further objects to this RFA on the grounds that the
20 definition of "YOU" is grossly overbroad. StudiVZ further objects to this RFA on
21 the grounds that it is unlimited as to time, and is so overbroad as to be unduly
22 burdensome and harassing. StudiVZ further objects to this RFA on the grounds
23 that it seeks information that is not relevant nor reasonably calculated to lead to the
24 discovery of admissible evidence.

25 StudiVZ further objects to this RFA on the grounds that, in granting in part
26 Facebook's request for a continuance on the hearing for StudiVZ's Motion to
27 Dismiss for lack of personal jurisdiction and *forum non conveniens*, the District
28 Court made its decision based upon the then-pending discovery requests. Likewise,

1 StudiVZ did not oppose Facebook's request to continue the hearing on the personal
2 jurisdiction portion of StudiVZ's Motion to Dismiss based upon the existing
3 discovery and the disputes related thereto. Had Facebook been upfront with the
4 Court and StudiVZ and disclosed the fact that Facebook secretly planned to
5 propound six additional sets of discovery (including more document demands to
6 StudiVZ than had been propounded before) a few days after the Court issued its
7 ruling, StudiVZ would have opposed Facebook's request to continue even the
8 personal jurisdiction portion of StudiVZ's Motion to Dismiss, and StudiVZ
9 believes that the Court would have ruled differently and would have denied all of
10 the relief requested by Facebook. StudiVZ further objects to this RFA on the
11 grounds that Facebook has failed to explain (1) why this RFA was not propounded
12 over four months ago (when Facebook propounded its other discovery), and (2) why
13 StudiVZ should have to respond to an RFA the response to which would have been
14 due long after the original hearing date of StudiVZ's Motion to Dismiss, which
15 hearing date was selected in consultation with Facebook so that Facebook would
16 have many months to take jurisdictional discovery.

17
18 **REQUEST FOR ADMISSION NO. 3:**

19 Admit that YOU used FACEBOOK COMPUTER CODE in the design of at
20 least one of the STUDIVZ WEBSITES.

21 **RESPONSE TO REQUEST FOR ADMISSION NO. 3:**

22 StudiVZ hereby incorporates by reference the general objections set forth
23 above. StudiVZ further objects to this RFA on the grounds that a plaintiff is not
24 entitled to take discovery on personal jurisdiction as a matter of right. In order to
25 do so, Facebook must either make a *prima facie* showing of jurisdiction over
26 StudiVZ, or it must identify material jurisdictional issues that are in dispute.
27 Facebook has done neither. StudiVZ further objects to this RFA on the grounds
28 that the definitions of "YOU" and "STUDIVZ WEBSITES" are grossly overbroad.

1 StudiVZ further objects to this RFA on the grounds that it is unlimited as to time,
2 and is so overbroad as to be unduly burdensome and harassing. StudiVZ further
3 objects to this RFA on the grounds that it seeks information that is not relevant nor
4 reasonably calculated to lead to the discovery of admissible evidence.

5 StudiVZ further objects to this RFA on the grounds that, in granting in part
6 Facebook's request for a continuance on the hearing for StudiVZ's Motion to
7 Dismiss for lack of personal jurisdiction and *forum non conveniens*, the District
8 Court made its decision based upon the then-pending discovery requests. Likewise,
9 StudiVZ did not oppose Facebook's request to continue the hearing on the personal
10 jurisdiction portion of StudiVZ's Motion to Dismiss based upon the existing
11 discovery and the disputes related thereto. Had Facebook been upfront with the
12 Court and StudiVZ and disclosed the fact that Facebook secretly planned to
13 propound six additional sets of discovery (including more document demands to
14 StudiVZ than had been propounded before) a few days after the Court issued its
15 ruling, StudiVZ would have opposed Facebook's request to continue even the
16 personal jurisdiction portion of StudiVZ's Motion to Dismiss, and StudiVZ
17 believes that the Court would have ruled differently and would have denied all of
18 the relief requested by Facebook. StudiVZ further objects to this RFA on the
19 grounds that Facebook has failed to explain (1) why this RFA was not propounded
20 over four months ago (when Facebook propounded its other discovery), and (2) why
21 StudiVZ should have to respond to an RFA the response to which would have been
22 due long after the original hearing date of StudiVZ's Motion to Dismiss, which
23 hearing date was selected in consultation with Facebook so that Facebook would
24 have many months to take jurisdictional discovery.

25
26 **REQUEST FOR ADMISSION NO. 4:**

27 Admit that YOU intentionally designed at least one of the STUDIVZ
28 WEBSITES to look like the FACEBOOK WEBSITE.

RESPONSE TO REQUEST FOR ADMISSION NO. 4:

StudiVZ hereby incorporates by reference the general objections set forth above. StudiVZ further objects to this RFA on the grounds that a plaintiff is not entitled to take discovery on personal jurisdiction as a matter of right. In order to do so, Facebook must either make a *prima facie* showing of jurisdiction over StudiVZ, or it must identify material jurisdictional issues that are in dispute. Facebook has done neither. StudiVZ further objects to this RFA on the grounds that the definitions of “YOU” and “STUDIVZ WEBSITES” are grossly overbroad. StudiVZ further objects to this RFA on the grounds that it is unlimited as to time, and is so overbroad as to be unduly burdensome and harassing. StudiVZ further objects to this RFA on the grounds that it seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

StudiVZ further objects to this RFA on the grounds that, in granting in part Facebook’s request for a continuance on the hearing for StudiVZ’s Motion to Dismiss for lack of personal jurisdiction and *forum non conveniens*, the District Court made its decision based upon the then-pending discovery requests. Likewise, StudiVZ did not oppose Facebook’s request to continue the hearing on the personal jurisdiction portion of StudiVZ’s Motion to Dismiss based upon the existing discovery and the disputes related thereto. Had Facebook been upfront with the Court and StudiVZ and disclosed the fact that Facebook secretly planned to propound six additional sets of discovery (including more document demands to StudiVZ than had been propounded before) a few days after the Court issued its ruling, StudiVZ would have opposed Facebook’s request to continue even the personal jurisdiction portion of StudiVZ’s Motion to Dismiss, and StudiVZ believes that the Court would have ruled differently and would have denied all of the relief requested by Facebook. StudiVZ further objects to this RFA on the grounds that Facebook has failed to explain (1) why this RFA was not propounded over four months ago (when Facebook propounded its other discovery), and (2) why

1 StudiVZ should have to respond to an RFA the response to which would have been
2 due long after the original hearing date of StudiVZ's Motion to Dismiss, which
3 hearing date was selected in consultation with Facebook so that Facebook would
4 have many months to take jurisdictional discovery.

5
6 **REQUEST FOR ADMISSION NO. 5:**

7 Admit that YOU accessed the FACEBOOK WEBSITE for the purpose of
8 copying ANY design elements of the site.

9 **RESPONSE TO REQUEST FOR ADMISSION NO. 5:**

10 StudiVZ hereby incorporates by reference the general objections set forth
11 above. StudiVZ further objects to this RFA on the grounds that a plaintiff is not
12 entitled to take discovery on personal jurisdiction as a matter of right. In order to
13 do so, Facebook must either make a *prima facie* showing of jurisdiction over
14 StudiVZ, or it must identify material jurisdictional issues that are in dispute.
15 Facebook has done neither. StudiVZ further objects to this RFA on the grounds
16 that the definition of "YOU" is grossly overbroad. StudiVZ further objects to this
17 RFA on the grounds that the phrase "design elements" is vague and ambiguous.
18 StudiVZ further objects to this RFA on the grounds that it is unlimited as to time,
19 and is so overbroad as to be unduly burdensome and harassing. StudiVZ further
20 objects to this RFA on the grounds that it seeks information that is not relevant nor
21 reasonably calculated to lead to the discovery of admissible evidence.

22 StudiVZ further objects to this RFA on the grounds that, in granting in part
23 Facebook's request for a continuance on the hearing for StudiVZ's Motion to
24 Dismiss for lack of personal jurisdiction and *forum non conveniens*, the District
25 Court made its decision based upon the then-pending discovery requests. Likewise,
26 StudiVZ did not oppose Facebook's request to continue the hearing on the personal
27 jurisdiction portion of StudiVZ's Motion to Dismiss based upon the existing
28 discovery and the disputes related thereto. Had Facebook been upfront with the

1 Court and StudiVZ and disclosed the fact that Facebook secretly planned to
2 propound six additional sets of discovery (including more document demands to
3 StudiVZ than had been propounded before) a few days after the Court issued its
4 ruling, StudiVZ would have opposed Facebook's request to continue even the
5 personal jurisdiction portion of StudiVZ's Motion to Dismiss, and StudiVZ
6 believes that the Court would have ruled differently and would have denied all of
7 the relief requested by Facebook. StudiVZ further objects to this RFA on the
8 grounds that Facebook has failed to explain (1) why this RFA was not propounded
9 over four months ago (when Facebook propounded its other discovery), and (2) why
10 StudiVZ should have to respond to an RFA the response to which would have been
11 due long after the original hearing date of StudiVZ's Motion to Dismiss, which
12 hearing date was selected in consultation with Facebook so that Facebook would
13 have many months to take jurisdictional discovery.
14

15 **REQUEST FOR ADMISSION NO. 6:**

16 Admit that YOU conceived of the idea for at least one of the STUDIVZ
17 WEBSITES while in the United States.

18 **RESPONSE TO REQUEST FOR ADMISSION NO. 6:**

19 StudiVZ hereby incorporates by reference the general objections set forth
20 above. StudiVZ further objects to this RFA on the grounds that a plaintiff is not
21 entitled to take discovery on personal jurisdiction as a matter of right. In order to
22 do so, Facebook must either make a *prima facie* showing of jurisdiction over
23 StudiVZ, or it must identify material jurisdictional issues that are in dispute.
24 Facebook has done neither. StudiVZ further objects to this RFA on the grounds
25 that the definitions of "YOU" and "STUDIVZ WEBSITES" are grossly overbroad.
26 StudiVZ further objects to this RFA on the grounds that it is unlimited as to time,
27 and is so overbroad as to be unduly burdensome and harassing. StudiVZ further
28

1 objects to this RFA on the grounds that it seeks information that is not relevant nor
2 reasonably calculated to lead to the discovery of admissible evidence.

3 StudiVZ further objects to this RFA on the grounds that, in granting in part
4 Facebook's request for a continuance on the hearing for StudiVZ's Motion to
5 Dismiss for lack of personal jurisdiction and *forum non conveniens*, the District
6 Court made its decision based upon the then-pending discovery requests. Likewise,
7 StudiVZ did not oppose Facebook's request to continue the hearing on the personal
8 jurisdiction portion of StudiVZ's Motion to Dismiss based upon the existing
9 discovery and the disputes related thereto. Had Facebook been upfront with the
10 Court and StudiVZ and disclosed the fact that Facebook secretly planned to
11 propound six additional sets of discovery (including more document demands to
12 StudiVZ than had been propounded before) a few days after the Court issued its
13 ruling, StudiVZ would have opposed Facebook's request to continue even the
14 personal jurisdiction portion of StudiVZ's Motion to Dismiss, and StudiVZ
15 believes that the Court would have ruled differently and would have denied all of
16 the relief requested by Facebook. StudiVZ further objects to this RFA on the
17 grounds that Facebook has failed to explain (1) why this RFA was not propounded
18 over four months ago (when Facebook propounded its other discovery), and (2) why
19 StudiVZ should have to respond to an RFA the response to which would have been
20 due long after the original hearing date of StudiVZ's Motion to Dismiss, which
21 hearing date was selected in consultation with Facebook so that Facebook would
22 have many months to take jurisdictional discovery.

23
24 **REQUEST FOR ADMISSION NO. 7:**

25 Admit that YOU accessed the FCEBOOK WEBSITE while in the United
26 States in order to develop at least one of the STUDIVZ WEBSITES or their
27 predecessors.
28

RESPONSE TO REQUEST FOR ADMISSION NO. 7:

StudiVZ hereby incorporates by reference the general objections set forth above. StudiVZ further objects to this RFA on the grounds that a plaintiff is not entitled to take discovery on personal jurisdiction as a matter of right. In order to do so, Facebook must either make a *prima facie* showing of jurisdiction over StudiVZ, or it must identify material jurisdictional issues that are in dispute. Facebook has done neither. StudiVZ further objects to this RFA on the grounds that the definitions of “YOU” and “STUDIVZ WEBSITES” are grossly overbroad. StudiVZ further objects to this RFA on the grounds that it is unlimited as to time, and is so overbroad as to be unduly burdensome and harassing. StudiVZ further objects to this RFA on the grounds that it seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

StudiVZ further objects to this RFA on the grounds that, in granting in part Facebook’s request for a continuance on the hearing for StudiVZ’s Motion to Dismiss for lack of personal jurisdiction and *forum non conveniens*, the District Court made its decision based upon the then-pending discovery requests. Likewise, StudiVZ did not oppose Facebook’s request to continue the hearing on the personal jurisdiction portion of StudiVZ’s Motion to Dismiss based upon the existing discovery and the disputes related thereto. Had Facebook been upfront with the Court and StudiVZ and disclosed the fact that Facebook secretly planned to propound six additional sets of discovery (including more document demands to StudiVZ than had been propounded before) a few days after the Court issued its ruling, StudiVZ would have opposed Facebook’s request to continue even the personal jurisdiction portion of StudiVZ’s Motion to Dismiss, and StudiVZ believes that the Court would have ruled differently and would have denied all of the relief requested by Facebook. StudiVZ further objects to this RFA on the grounds that Facebook has failed to explain (1) why this RFA was not propounded over four months ago (when Facebook propounded its other discovery), and (2) why

1 StudiVZ should have to respond to an RFA the response to which would have been
2 due long after the original hearing date of StudiVZ's Motion to Dismiss, which
3 hearing date was selected in consultation with Facebook so that Facebook would
4 have many months to take jurisdictional discovery.

5
6 **REQUEST FOR ADMISSION NO. 8:**

7 Admit that STUDIVZ founder Ehssan Dariani accessed the FACEBOOK
8 WEBSITE in order to develop at least one of the STUDIVZ WEBSITES or their
9 predecessors.

10 **RESPONSE TO REQUEST FOR ADMISSION NO. 8:**

11 StudiVZ hereby incorporates by reference the general objections set forth
12 above. StudiVZ further objects to this RFA on the grounds that a plaintiff is not
13 entitled to take discovery on personal jurisdiction as a matter of right. In order to
14 do so, Facebook must either make a *prima facie* showing of jurisdiction over
15 StudiVZ, or it must identify material jurisdictional issues that are in dispute.
16 Facebook has done neither. StudiVZ further objects to this RFA on the grounds
17 that the definition of "STUDIVZ WEBSITES" is grossly overbroad. StudiVZ
18 further objects to this RFA on the grounds that it is unlimited as to time, and is so
19 overbroad as to be unduly burdensome and harassing. StudiVZ further objects to
20 this RFA on the grounds that it seeks information that is not relevant nor reasonably
21 calculated to lead to the discovery of admissible evidence.

22 StudiVZ further objects to this RFA on the grounds that, in granting in part
23 Facebook's request for a continuance on the hearing for StudiVZ's Motion to
24 Dismiss for lack of personal jurisdiction and *forum non conveniens*, the District
25 Court made its decision based upon the then-pending discovery requests. Likewise,
26 StudiVZ did not oppose Facebook's request to continue the hearing on the personal
27 jurisdiction portion of StudiVZ's Motion to Dismiss based upon the existing
28 discovery and the disputes related thereto. Had Facebook been upfront with the

1 Court and StudiVZ and disclosed the fact that Facebook secretly planned to
2 propound six additional sets of discovery (including more document demands to
3 StudiVZ than had been propounded before) a few days after the Court issued its
4 ruling, StudiVZ would have opposed Facebook's request to continue even the
5 personal jurisdiction portion of StudiVZ's Motion to Dismiss, and StudiVZ
6 believes that the Court would have ruled differently and would have denied all of
7 the relief requested by Facebook. StudiVZ further objects to this RFA on the
8 grounds that Facebook has failed to explain (1) why this RFA was not propounded
9 over four months ago (when Facebook propounded its other discovery), and (2) why
10 StudiVZ should have to respond to an RFA the response to which would have been
11 due long after the original hearing date of StudiVZ's Motion to Dismiss, which
12 hearing date was selected in consultation with Facebook so that Facebook would
13 have many months to take jurisdictional discovery.
14

15 **REQUEST FOR ADMISSION NO. 9:**

16 Admit that STUDIVZ founder Dennis Demmann accessed the FACEBOOK
17 WEBSITE in order to develop at least one of the STUDIVZ WEBSITES or their
18 predecessors.

19 **RESPONSE TO REQUEST FOR ADMISSION NO. 9:**

20 StudiVZ hereby incorporates by reference the general objections set forth
21 above. StudiVZ further objects to this RFA on the grounds that a plaintiff is not
22 entitled to take discovery on personal jurisdiction as a matter of right. In order to
23 do so, Facebook must either make a *prima facie* showing of jurisdiction over
24 StudiVZ, or it must identify material jurisdictional issues that are in dispute.
25 Facebook has done neither. StudiVZ further objects to this RFA on the grounds
26 that the definition of "STUDIVZ WEBSITES" is grossly overbroad. StudiVZ
27 further objects to this RFA on the grounds that it is unlimited as to time, and is so
28 overbroad as to be unduly burdensome and harassing. StudiVZ further objects to

1 this RFA on the grounds that it seeks information that is not relevant nor reasonably
2 calculated to lead to the discovery of admissible evidence.

3 StudiVZ further objects to this RFA on the grounds that, in granting in part
4 Facebook's request for a continuance on the hearing for StudiVZ's Motion to
5 Dismiss for lack of personal jurisdiction and *forum non conveniens*, the District
6 Court made its decision based upon the then-pending discovery requests. Likewise,
7 StudiVZ did not oppose Facebook's request to continue the hearing on the personal
8 jurisdiction portion of StudiVZ's Motion to Dismiss based upon the existing
9 discovery and the disputes related thereto. Had Facebook been upfront with the
10 Court and StudiVZ and disclosed the fact that Facebook secretly planned to
11 propound six additional sets of discovery (including more document demands to
12 StudiVZ than had been propounded before) a few days after the Court issued its
13 ruling, StudiVZ would have opposed Facebook's request to continue even the
14 personal jurisdiction portion of StudiVZ's Motion to Dismiss, and StudiVZ
15 believes that the Court would have ruled differently and would have denied all of
16 the relief requested by Facebook. StudiVZ further objects to this RFA on the
17 grounds that Facebook has failed to explain (1) why this RFA was not propounded
18 over four months ago (when Facebook propounded its other discovery), and (2) why
19 StudiVZ should have to respond to an RFA the response to which would have been
20 due long after the original hearing date of StudiVZ's Motion to Dismiss, which
21 hearing date was selected in consultation with Facebook so that Facebook would
22 have many months to take jurisdictional discovery.

23
24 **REQUEST FOR ADMISSION NO. 10:**

25 Admit that SUTDIVZ founder Ehssan Dariani accessed the FACEBOOK
26 WEBSITE to copy the layout of the FACEBOOK WEBSITE.
27
28

RESPONSE TO REQUEST FOR ADMISSION NO. 10:

StudiVZ hereby incorporates by reference the general objections set forth above. StudiVZ further objects to this RFA on the grounds that a plaintiff is not entitled to take discovery on personal jurisdiction as a matter of right. In order to do so, Facebook must either make a *prima facie* showing of jurisdiction over StudiVZ, or it must identify material jurisdictional issues that are in dispute. Facebook has done neither. StudiVZ further objects to this RFA on the grounds that it is unlimited as to time, and is so overbroad as to be unduly burdensome and harassing. StudiVZ further objects to this RFA on the grounds that it seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

StudiVZ further objects to this RFA on the grounds that, in granting in part Facebook's request for a continuance on the hearing for StudiVZ's Motion to Dismiss for lack of personal jurisdiction and *forum non conveniens*, the District Court made its decision based upon the then-pending discovery requests. Likewise, StudiVZ did not oppose Facebook's request to continue the hearing on the personal jurisdiction portion of StudiVZ's Motion to Dismiss based upon the existing discovery and the disputes related thereto. Had Facebook been upfront with the Court and StudiVZ and disclosed the fact that Facebook secretly planned to propound six additional sets of discovery (including more document demands to StudiVZ than had been propounded before) a few days after the Court issued its ruling, StudiVZ would have opposed Facebook's request to continue even the personal jurisdiction portion of StudiVZ's Motion to Dismiss, and StudiVZ believes that the Court would have ruled differently and would have denied all of the relief requested by Facebook. StudiVZ further objects to this RFA on the grounds that Facebook has failed to explain (1) why this RFA was not propounded over four months ago (when Facebook propounded its other discovery), and (2) why StudiVZ should have to respond to an RFA the response to which would have been

1 due long after the original hearing date of StudiVZ's Motion to Dismiss, which
2 hearing date was selected in consultation with Facebook so that Facebook would
3 have many months to take jurisdictional discovery.
4

5 **REQUEST FOR ADMISSION NO. 11:**

6 Admit that STUDIVZ founder Dennis Bemmann accessed the FACEBOOK
7 WEBSITE to copy the layout of the FACEBOOK WEBSITE.

8 **RESPONSE TO REQUEST FOR ADMISSION NO. 11:**

9 StudiVZ hereby incorporates by reference the general objections set forth
10 above. StudiVZ further objects to this RFA on the grounds that a plaintiff is not
11 entitled to take discovery on personal jurisdiction as a matter of right. In order to
12 do so, Facebook must either make a *prima facie* showing of jurisdiction over
13 StudiVZ, or it must identify material jurisdictional issues that are in dispute.
14 Facebook has done neither. StudiVZ further objects to this RFA on the grounds
15 that it is unlimited as to time, and is so overbroad as to be unduly burdensome and
16 harassing. StudiVZ further objects to this RFA on the grounds that it seeks
17 information that is not relevant nor reasonably calculated to lead to the discovery of
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20 Facebook's request for a continuance on the hearing for StudiVZ's Motion to
21 Dismiss for lack of personal jurisdiction and *forum non conveniens*, the District
22 Court made its decision based upon the then-pending discovery requests. Likewise,
23 StudiVZ did not oppose Facebook's request to continue the hearing on the personal
24 jurisdiction portion of StudiVZ's Motion to Dismiss based upon the existing
25 discovery and the disputes related thereto. Had Facebook been upfront with the
26 Court and StudiVZ and disclosed the fact that Facebook secretly planned to
27 propound six additional sets of discovery (including more document demands to
28 StudiVZ than had been propounded before) a few days after the Court issued its

1 ruling, StudiVZ would have opposed Facebook's request to continue even the
2 personal jurisdiction portion of StudiVZ's Motion to Dismiss, and StudiVZ
3 believes that the Court would have ruled differently and would have denied all of
4 the relief requested by Facebook. StudiVZ further objects to this RFA on the
5 grounds that Facebook has failed to explain (1) why this RFA was not propounded
6 over four months ago (when Facebook propounded its other discovery), and (2) why
7 StudiVZ should have to respond to an RFA the response to which would have been
8 due long after the original hearing date of StudiVZ's Motion to Dismiss, which
9 hearing date was selected in consultation with Facebook so that Facebook would
10 have many months to take jurisdictional discovery.
11

12 **REQUEST FOR ADMISSION NO. 12:**

13 Admit that YOU accessed the FACEBOOK WEBSITE to copy the layout of
14 the FACEBOOK WEBSITE.

15 **RESPONSE TO REQUEST FOR ADMISSION NO. 12:**

16 StudiVZ hereby incorporates by reference the general objections set forth
17 above. StudiVZ further objects to this RFA on the grounds that a plaintiff is not
18 entitled to take discovery on personal jurisdiction as a matter of right. In order to
19 do so, Facebook must either make a *prima facie* showing of jurisdiction over
20 StudiVZ, or it must identify material jurisdictional issues that are in dispute.
21 Facebook has done neither. StudiVZ further objects to this RFA on the grounds
22 that the definition of "YOU" is grossly overbroad. StudiVZ further objects to this
23 RFA on the grounds that it is unlimited as to time, and is so overbroad as to be
24 unduly burdensome and harassing. StudiVZ further objects to this RFA on the
25 grounds that it seeks information that is not relevant nor reasonably calculated to
26 lead to the discovery of admissible evidence.

27 StudiVZ further objects to this RFA on the grounds that, in granting in part
28 Facebook's request for a continuance on the hearing for StudiVZ's Motion to

Dismiss for lack of personal jurisdiction and *forum non conveniens*, the District Court made its decision based upon the then-pending discovery requests. Likewise, StudiVZ did not oppose Facebook's request to continue the hearing on the personal jurisdiction portion of StudiVZ's Motion to Dismiss based upon the existing discovery and the disputes related thereto. Had Facebook been upfront with the Court and StudiVZ and disclosed the fact that Facebook secretly planned to propound six additional sets of discovery (including more document demands to StudiVZ than had been propounded before) a few days after the Court issued its ruling, StudiVZ would have opposed Facebook's request to continue even the personal jurisdiction portion of StudiVZ's Motion to Dismiss, and StudiVZ believes that the Court would have ruled differently and would have denied all of the relief requested by Facebook. StudiVZ further objects to this RFA on the grounds that Facebook has failed to explain (1) why this RFA was not propounded over four months ago (when Facebook propounded its other discovery), and (2) why StudiVZ should have to respond to an RFA the response to which would have been due long after the original hearing date of StudiVZ's Motion to Dismiss, which hearing date was selected in consultation with Facebook so that Facebook would have many months to take jurisdictional discovery.

REQUEST FOR ADMISSION NO. 13:

Admit that STUDIVZ founder Ehssan Dariani accessed the FACEBOOK WEBSITE to copy the functions of the FACEBOOK WEBSITE, including, but not limited to, the FACEBOOK WEBSITE "Poke" or "Wall" features.

RESPONSE TO REQUEST FOR ADMISSION NO. 13:

StudiVZ hereby incorporates by reference the general objections set forth above. StudiVZ further objects to this RFA on the grounds that a plaintiff is not entitled to take discovery on personal jurisdiction as a matter of right. In order to do so, Facebook must either make a *prima facie* showing of jurisdiction over

1 StudiVZ, or it must identify material jurisdictional issues that are in dispute.

2 Facebook has done neither. StudiVZ further objects to this RFA on the grounds
3 that the term “functions” is vague and ambiguous. StudiVZ further objects to this
4 RFA on the grounds that it is compound. StudiVZ further objects to this RFA on
5 the grounds that it is unlimited as to time, and is so overbroad as to be unduly
6 burdensome and harassing. StudiVZ further objects to this RFA on the grounds
7 that it seeks information that is not relevant nor reasonably calculated to lead to the
8 discovery of admissible evidence.

9 StudiVZ further objects to this RFA on the grounds that, in granting in part
10 Facebook’s request for a continuance on the hearing for StudiVZ’s Motion to
11 Dismiss for lack of personal jurisdiction and *forum non conveniens*, the District
12 Court made its decision based upon the then-pending discovery requests. Likewise,
13 StudiVZ did not oppose Facebook’s request to continue the hearing on the personal
14 jurisdiction portion of StudiVZ’s Motion to Dismiss based upon the existing
15 discovery and the disputes related thereto. Had Facebook been upfront with the
16 Court and StudiVZ and disclosed the fact that Facebook secretly planned to
17 propound six additional sets of discovery (including more document demands to
18 StudiVZ than had been propounded before) a few days after the Court issued its
19 ruling, StudiVZ would have opposed Facebook’s request to continue even the
20 personal jurisdiction portion of StudiVZ’s Motion to Dismiss, and StudiVZ
21 believes that the Court would have ruled differently and would have denied all of
22 the relief requested by Facebook. StudiVZ further objects to this RFA on the
23 grounds that Facebook has failed to explain (1) why this RFA was not propounded
24 over four months ago (when Facebook propounded its other discovery), and (2) why
25 StudiVZ should have to respond to an RFA the response to which would have been
26 due long after the original hearing date of StudiVZ’s Motion to Dismiss, which
27 hearing date was selected in consultation with Facebook so that Facebook would
28 have many months to take jurisdictional discovery.

1 **REQUEST FOR ADMISSION NO. 14:**

2 Admit that STUDIVZ founder Dennis Bemmann accessed the FACEBOOK
3 WEBSITE to copy the functions of the FACEBOOK WEBSITE, including, but not
4 limited to, the FACEBOOK WEBSITE “Poke” or “Wall” features.

5 **RESPONSE TO REQUEST FOR ADMISSION NO. 14:**

6 StudiVZ hereby incorporates by reference the general objections set forth
7 above. StudiVZ further objects to this RFA on the grounds that a plaintiff is not
8 entitled to take discovery on personal jurisdiction as a matter of right. In order to
9 do so, Facebook must either make a *prima facie* showing of jurisdiction over
10 StudiVZ, or it must identify material jurisdictional issues that are in dispute.
11 Facebook has done neither. StudiVZ further objects to this RFA on the grounds
12 that the term “functions” is vague and ambiguous. StudiVZ further objects to this
13 RFA on the grounds that it is compound. StudiVZ further objects to this RFA on
14 the grounds that it is unlimited as to time, and is so overbroad as to be unduly
15 burdensome and harassing. StudiVZ further objects to this RFA on the grounds
16 that it seeks information that is not relevant nor reasonably calculated to lead to the
17 discovery of admissible evidence.

18 StudiVZ further objects to this RFA on the grounds that, in granting in part
19 Facebook’s request for a continuance on the hearing for StudiVZ’s Motion to
20 Dismiss for lack of personal jurisdiction and *forum non conveniens*, the District
21 Court made its decision based upon the then-pending discovery requests. Likewise,
22 StudiVZ did not oppose Facebook’s request to continue the hearing on the personal
23 jurisdiction portion of StudiVZ’s Motion to Dismiss based upon the existing
24 discovery and the disputes related thereto. Had Facebook been upfront with the
25 Court and StudiVZ and disclosed the fact that Facebook secretly planned to
26 propound six additional sets of discovery (including more document demands to
27 StudiVZ than had been propounded before) a few days after the Court issued its
28 ruling, StudiVZ would have opposed Facebook’s request to continue even the

1 personal jurisdiction portion of StudiVZ's Motion to Dismiss, and StudiVZ
2 believes that the Court would have ruled differently and would have denied all of
3 the relief requested by Facebook. StudiVZ further objects to this RFA on the
4 grounds that Facebook has failed to explain (1) why this RFA was not propounded
5 over four months ago (when Facebook propounded its other discovery), and (2) why
6 StudiVZ should have to respond to an RFA the response to which would have been
7 due long after the original hearing date of StudiVZ's Motion to Dismiss, which
8 hearing date was selected in consultation with Facebook so that Facebook would
9 have many months to take jurisdictional discovery.

10
11 **REQUEST FOR ADMISSION NO. 15:**

12 Admit that YOU accessed the FACEBOOK WEBSITE to copy the functions
13 of the FACEBOOK WEBSITE, including, but not limited to, the FACEBOOK
14 WEBSITE "Poke" or "Wall" features..

15 **RESPONSE TO REQUEST FOR ADMISSION NO. 15:**

16 StudiVZ hereby incorporates by reference the general objections set forth
17 above. StudiVZ further objects to this RFA on the grounds that a plaintiff is not
18 entitled to take discovery on personal jurisdiction as a matter of right. In order to
19 do so, Facebook must either make a *prima facie* showing of jurisdiction over
20 StudiVZ, or it must identify material jurisdictional issues that are in dispute.
21 Facebook has done neither. StudiVZ further objects to this RFA on the grounds
22 that the definition of "YOU" is grossly overbroad. StudiVZ further objects to this
23 RFA on the grounds that the term "functions" is vague and ambiguous. StudiVZ
24 further objects to this RFA on the grounds that it is compound. StudiVZ further
25 objects to this RFA on the grounds that it is unlimited as to time, and is so
26 overbroad as to be unduly burdensome and harassing. StudiVZ further objects to
27 this RFA on the grounds that it seeks information that is not relevant nor reasonably
28 calculated to lead to the discovery of admissible evidence.

1 StudiVZ further objects to this RFA on the grounds that, in granting in part
2 Facebook's request for a continuance on the hearing for StudiVZ's Motion to
3 Dismiss for lack of personal jurisdiction and *forum non conveniens*, the District
4 Court made its decision based upon the then-pending discovery requests. Likewise,
5 StudiVZ did not oppose Facebook's request to continue the hearing on the personal
6 jurisdiction portion of StudiVZ's Motion to Dismiss based upon the existing
7 discovery and the disputes related thereto. Had Facebook been upfront with the
8 Court and StudiVZ and disclosed the fact that Facebook secretly planned to
9 propound six additional sets of discovery (including more document demands to
10 StudiVZ than had been propounded before) a few days after the Court issued its
11 ruling, StudiVZ would have opposed Facebook's request to continue even the
12 personal jurisdiction portion of StudiVZ's Motion to Dismiss, and StudiVZ
13 believes that the Court would have ruled differently and would have denied all of
14 the relief requested by Facebook. StudiVZ further objects to this RFA on the
15 grounds that Facebook has failed to explain (1) why this RFA was not propounded
16 over four months ago (when Facebook propounded its other discovery), and (2) why
17 StudiVZ should have to respond to an RFA the response to which would have been
18 due long after the original hearing date of StudiVZ's Motion to Dismiss, which
19 hearing date was selected in consultation with Facebook so that Facebook would
20 have many months to take jurisdictional discovery.

21
22 **REQUEST FOR ADMISSION NO. 16:**

23 Admit that all USERS OF STUDIVZ are required to agree to a terms of use
24 agreement prior to receiving full access to the STUDIVZ WEBSITES, their
25 networks or their features.

26 **RESPONSE TO REQUEST FOR ADMISSION NO. 16:**

27 StudiVZ hereby incorporates by reference the general objections set forth
28 above. StudiVZ further objects to this RFA on the grounds that a plaintiff is not

1 entitled to take discovery on personal jurisdiction as a matter of right. In order to
2 do so, Facebook must either make a *prima facie* showing of jurisdiction over
3 StudiVZ, or it must identify material jurisdictional issues that are in dispute.
4 Facebook has done neither. StudiVZ further objects to this RFA on the grounds
5 that the definitions of “USERS OF STUDIVZ” and “STUDIVZ WEBSITES” are
6 grossly overbroad. StudiVZ further objects to this RFA on the grounds that it is
7 compound. StudiVZ further objects to this RFA on the grounds that it is unlimited
8 as to time, and is so overbroad as to be unduly burdensome and harassing. StudiVZ
9 further objects to this RFA on the grounds that it seeks information that is not
10 relevant nor reasonably calculated to lead to the discovery of admissible evidence.

11 StudiVZ further objects to this RFA on the grounds that, in granting in part
12 Facebook’s request for a continuance on the hearing for StudiVZ’s Motion to
13 Dismiss for lack of personal jurisdiction and *forum non conveniens*, the District
14 Court made its decision based upon the then-pending discovery requests. Likewise,
15 StudiVZ did not oppose Facebook’s request to continue the hearing on the personal
16 jurisdiction portion of StudiVZ’s Motion to Dismiss based upon the existing
17 discovery and the disputes related thereto. Had Facebook been upfront with the
18 Court and StudiVZ and disclosed the fact that Facebook secretly planned to
19 propound six additional sets of discovery (including more document demands to
20 StudiVZ than had been propounded before) a few days after the Court issued its
21 ruling, StudiVZ would have opposed Facebook’s request to continue even the
22 personal jurisdiction portion of StudiVZ’s Motion to Dismiss, and StudiVZ
23 believes that the Court would have ruled differently and would have denied all of
24 the relief requested by Facebook. StudiVZ further objects to this RFA on the
25 grounds that Facebook has failed to explain (1) why this RFA was not propounded
26 over four months ago (when Facebook propounded its other discovery), and (2) why
27 StudiVZ should have to respond to an RFA the response to which would have been
28 due long after the original hearing date of StudiVZ’s Motion to Dismiss, which

1 hearing date was selected in consultation with Facebook so that Facebook would
2 have many months to take jurisdictional discovery.
3

4 **REQUEST FOR ADMISSION NO. 17:**

5 Admit that since October 2005, COMPUTER CODE for at least one of the
6 STUDIVZ WEBSITES was or has been altered to account for USERS OF
7 STUDIVZ residing in the United States, including, but not limited to, the state of
8 California.

9 **RESPONSE TO REQUEST FOR ADMISSION NO. 17:**

10 StudiVZ hereby incorporates by reference the general objections set forth
11 above. StudiVZ further objects to this RFA on the grounds that a plaintiff is not
12 entitled to take discovery on personal jurisdiction as a matter of right. In order to
13 do so, Facebook must either make a *prima facie* showing of jurisdiction over
14 StudiVZ, or it must identify material jurisdictional issues that are in dispute.
15 Facebook has done neither. StudiVZ further objects to this RFA on the grounds
16 that the definitions of “STUDIVZ WEBSITES” and “USERS OF STUDIVZ” are
17 grossly overbroad. StudiVZ further objects to this RFA on the grounds that it is
18 unlimited as to time, and is so overbroad as to be unduly burdensome and
19 harassing. StudiVZ further objects to this RFA on the grounds that it seeks
20 information that is not relevant nor reasonably calculated to lead to the discovery of
21 admissible evidence.

22 StudiVZ further objects to this RFA on the grounds that, in granting in part
23 Facebook’s request for a continuance on the hearing for StudiVZ’s Motion to
24 Dismiss for lack of personal jurisdiction and *forum non conveniens*, the District
25 Court made its decision based upon the then-pending discovery requests. Likewise,
26 StudiVZ did not oppose Facebook’s request to continue the hearing on the personal
27 jurisdiction portion of StudiVZ’s Motion to Dismiss based upon the existing
28 discovery and the disputes related thereto. Had Facebook been upfront with the

1 Court and StudiVZ and disclosed the fact that Facebook secretly planned to
2 propound six additional sets of discovery (including more document demands to
3 StudiVZ than had been propounded before) a few days after the Court issued its
4 ruling, StudiVZ would have opposed Facebook's request to continue even the
5 personal jurisdiction portion of StudiVZ's Motion to Dismiss, and StudiVZ
6 believes that the Court would have ruled differently and would have denied all of
7 the relief requested by Facebook. StudiVZ further objects to this RFA on the
8 grounds that Facebook has failed to explain (1) why this RFA was not propounded
9 over four months ago (when Facebook propounded its other discovery), and (2) why
10 StudiVZ should have to respond to an RFA the response to which would have been
11 due long after the original hearing date of StudiVZ's Motion to Dismiss, which
12 hearing date was selected in consultation with Facebook so that Facebook would
13 have many months to take jurisdictional discovery.
14

15 **REQUEST FOR ADMISSION NO. 18:**

16 Admit that STUDIVZ's business, income, revenue or profit models rely, at
17 least in part, on income from advertising, including, but not limited to,
18 advertisements and advertisement banners placed on the STUDIVZ WEBSITES.

19 **RESPONSE TO REQUEST FOR ADMISSION NO. 18:**

20 StudiVZ hereby incorporates by reference the general objections set forth
21 above. StudiVZ further objects to this RFA on the grounds that a plaintiff is not
22 entitled to take discovery on personal jurisdiction as a matter of right. In order to
23 do so, Facebook must either make a *prima facie* showing of jurisdiction over
24 StudiVZ, or it must identify material jurisdictional issues that are in dispute.
25 Facebook has done neither. StudiVZ further objects to this RFA on the grounds
26 that the definitions of "STUDIVZ" and "STUDIVZ WEBSITES" are grossly
27 overbroad. StudiVZ further objects to this RFA on the grounds that it is compound.
28 StudiVZ further objects to this RFA on the grounds that it is unlimited as to time,

1 and is so overbroad as to be unduly burdensome and harassing. StudiVZ further
2 objects to this RFA on the grounds that it seeks information that is not relevant nor
3 reasonably calculated to lead to the discovery of admissible evidence.

4 StudiVZ further objects to this RFA on the grounds that, in granting in part
5 Facebook's request for a continuance on the hearing for StudiVZ's Motion to
6 Dismiss for lack of personal jurisdiction and *forum non conveniens*, the District
7 Court made its decision based upon the then-pending discovery requests. Likewise,
8 StudiVZ did not oppose Facebook's request to continue the hearing on the personal
9 jurisdiction portion of StudiVZ's Motion to Dismiss based upon the existing
10 discovery and the disputes related thereto. Had Facebook been upfront with the
11 Court and StudiVZ and disclosed the fact that Facebook secretly planned to
12 propound six additional sets of discovery (including more document demands to
13 StudiVZ than had been propounded before) a few days after the Court issued its
14 ruling, StudiVZ would have opposed Facebook's request to continue even the
15 personal jurisdiction portion of StudiVZ's Motion to Dismiss, and StudiVZ
16 believes that the Court would have ruled differently and would have denied all of
17 the relief requested by Facebook. StudiVZ further objects to this RFA on the
18 grounds that Facebook has failed to explain (1) why this RFA was not propounded
19 over four months ago (when Facebook propounded its other discovery), and (2) why
20 StudiVZ should have to respond to an RFA the response to which would have been
21 due long after the original hearing date of StudiVZ's Motion to Dismiss, which
22 hearing date was selected in consultation with Facebook so that Facebook would
23 have many months to take jurisdictional discovery.

24
25 **REQUEST FOR ADMISSION NO. 19:**

26 Admit that the number of USERS OF STUDIVZ is a factor taken into
27 account by YOU when negotiating the cost of advertising on at least one of the
28 STUDIVZ WEBSITES.

RESPONSE TO REQUEST FOR ADMISSION NO. 19:

StudiVZ hereby incorporates by reference the general objections set forth above. StudiVZ further objects to this RFA on the grounds that a plaintiff is not entitled to take discovery on personal jurisdiction as a matter of right. In order to do so, Facebook must either make a *prima facie* showing of jurisdiction over StudiVZ, or it must identify material jurisdictional issues that are in dispute. Facebook has done neither. StudiVZ further objects to this RFA on the grounds that the definitions of “USERS OF STUDIVZ,” “YOU” and “STUDIVZ WEBSITES” are grossly overbroad. StudiVZ further objects to this RFA on the grounds that it is unlimited as to time, and is so overbroad as to be unduly burdensome and harassing. StudiVZ further objects to this RFA on the grounds that it seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

StudiVZ further objects to this RFA on the grounds that, in granting in part Facebook’s request for a continuance on the hearing for StudiVZ’s Motion to Dismiss for lack of personal jurisdiction and *forum non conveniens*, the District Court made its decision based upon the then-pending discovery requests. Likewise, StudiVZ did not oppose Facebook’s request to continue the hearing on the personal jurisdiction portion of StudiVZ’s Motion to Dismiss based upon the existing discovery and the disputes related thereto. Had Facebook been upfront with the Court and StudiVZ and disclosed the fact that Facebook secretly planned to propound six additional sets of discovery (including more document demands to StudiVZ than had been propounded before) a few days after the Court issued its ruling, StudiVZ would have opposed Facebook’s request to continue even the personal jurisdiction portion of StudiVZ’s Motion to Dismiss, and StudiVZ believes that the Court would have ruled differently and would have denied all of the relief requested by Facebook. StudiVZ further objects to this RFA on the grounds that Facebook has failed to explain (1) why this RFA was not propounded

1 over four months ago (when Facebook propounded its other discovery), and (2) why
2 StudiVZ should have to respond to an RFA the response to which would have been
3 due long after the original hearing date of StudiVZ's Motion to Dismiss, which
4 hearing date was selected in consultation with Facebook so that Facebook would
5 have many months to take jurisdictional discovery.

6
7 **REQUEST FOR ADMISSION NO. 20:**

8 Admit that STUDIVZ's revenue is based, at least in part, on the total number
9 of USERS OF STUDIVZ.

10 **RESPONSE TO REQUEST FOR ADMISSION NO. 20:**

11 StudiVZ hereby incorporates by reference the general objections set forth
12 above. StudiVZ further objects to this RFA on the grounds that a plaintiff is not
13 entitled to take discovery on personal jurisdiction as a matter of right. In order to
14 do so, Facebook must either make a *prima facie* showing of jurisdiction over
15 StudiVZ, or it must identify material jurisdictional issues that are in dispute.
16 Facebook has done neither. StudiVZ further objects to this RFA on the grounds
17 that the definitions of "STUDIVZ" and "USERS OF STUDIVZ" are grossly
18 overbroad. StudiVZ further objects to this RFA on the grounds that it is unlimited
19 as to time, and is so overbroad as to be unduly burdensome and harassing. StudiVZ
20 further objects to this RFA on the grounds that it seeks information that is not
21 relevant nor reasonably calculated to lead to the discovery of admissible evidence.

22 StudiVZ further objects to this RFA on the grounds that, in granting in part
23 Facebook's request for a continuance on the hearing for StudiVZ's Motion to
24 Dismiss for lack of personal jurisdiction and *forum non conveniens*, the District
25 Court made its decision based upon the then-pending discovery requests. Likewise,
26 StudiVZ did not oppose Facebook's request to continue the hearing on the personal
27 jurisdiction portion of StudiVZ's Motion to Dismiss based upon the existing
28 discovery and the disputes related thereto. Had Facebook been upfront with the

1 Court and StudiVZ and disclosed the fact that Facebook secretly planned to
2 propound six additional sets of discovery (including more document demands to
3 StudiVZ than had been propounded before) a few days after the Court issued its
4 ruling, StudiVZ would have opposed Facebook's request to continue even the
5 personal jurisdiction portion of StudiVZ's Motion to Dismiss, and StudiVZ
6 believes that the Court would have ruled differently and would have denied all of
7 the relief requested by Facebook. StudiVZ further objects to this RFA on the
8 grounds that Facebook has failed to explain (1) why this RFA was not propounded
9 over four months ago (when Facebook propounded its other discovery), and (2) why
10 StudiVZ should have to respond to an RFA the response to which would have been
11 due long after the original hearing date of StudiVZ's Motion to Dismiss, which
12 hearing date was selected in consultation with Facebook so that Facebook would
13 have many months to take jurisdictional discovery.

14
15 **REQUEST FOR ADMISSION NO. 21:**

16 Admit that at least one of the STUDIVZ WEBSITES was modeled after the
17 FACEBOOK WEBSITE.

18 **RESPONSE TO REQUEST FOR ADMISSION NO. 21:**

19 StudiVZ hereby incorporates by reference the general objections set forth
20 above. StudiVZ further objects to this RFA on the grounds that a plaintiff is not
21 entitled to take discovery on personal jurisdiction as a matter of right. In order to
22 do so, Facebook must either make a *prima facie* showing of jurisdiction over
23 StudiVZ, or it must identify material jurisdictional issues that are in dispute.
24 Facebook has done neither. StudiVZ further objects to this RFA on the grounds
25 that the definition of "STUDIVZ WEBSITES" is grossly overbroad. StudiVZ
26 further objects to this RFA on the grounds that the term "modeled" is vague and
27 ambiguous. StudiVZ further objects to this RFA on the grounds that it is unlimited
28 as to time, and is so overbroad as to be unduly burdensome and harassing. StudiVZ

1 further objects to this RFA on the grounds that it seeks information that is not
2 relevant nor reasonably calculated to lead to the discovery of admissible evidence.

3 StudiVZ further objects to this RFA on the grounds that, in granting in part
4 Facebook's request for a continuance on the hearing for StudiVZ's Motion to
5 Dismiss for lack of personal jurisdiction and *forum non conveniens*, the District
6 Court made its decision based upon the then-pending discovery requests. Likewise,
7 StudiVZ did not oppose Facebook's request to continue the hearing on the personal
8 jurisdiction portion of StudiVZ's Motion to Dismiss based upon the existing
9 discovery and the disputes related thereto. Had Facebook been upfront with the
10 Court and StudiVZ and disclosed the fact that Facebook secretly planned to
11 propound six additional sets of discovery (including more document demands to
12 StudiVZ than had been propounded before) a few days after the Court issued its
13 ruling, StudiVZ would have opposed Facebook's request to continue even the
14 personal jurisdiction portion of StudiVZ's Motion to Dismiss, and StudiVZ
15 believes that the Court would have ruled differently and would have denied all of
16 the relief requested by Facebook. StudiVZ further objects to this RFA on the
17 grounds that Facebook has failed to explain (1) why this RFA was not propounded
18 over four months ago (when Facebook propounded its other discovery), and (2) why
19 StudiVZ should have to respond to an RFA the response to which would have been
20 due long after the original hearing date of StudiVZ's Motion to Dismiss, which
21 hearing date was selected in consultation with Facebook so that Facebook would
22 have many months to take jurisdictional discovery.

23
24 **REQUEST FOR ADMISSION NO. 22:**

25 Admit that YOU have accessed the FACEBOOK WEBSITE for commercial
26 purposes.
27
28

RESPONSE TO REQUEST FOR ADMISSION NO. 22:

StudiVZ hereby incorporates by reference the general objections set forth above. StudiVZ further objects to this RFA on the grounds that a plaintiff is not entitled to take discovery on personal jurisdiction as a matter of right. In order to do so, Facebook must either make a *prima facie* showing of jurisdiction over StudiVZ, or it must identify material jurisdictional issues that are in dispute. Facebook has done neither. StudiVZ further objects to this RFA on the grounds that the definition of “YOU” is grossly overbroad. StudiVZ further objects to this RFA on the grounds that the phrase “commercial purposes” is vague and ambiguous. StudiVZ further objects to this RFA on the grounds that it is unlimited as to time, and is so overbroad as to be unduly burdensome and harassing. StudiVZ further objects to this RFA on the grounds that it seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

StudiVZ further objects to this RFA on the grounds that, in granting in part Facebook’s request for a continuance on the hearing for StudiVZ’s Motion to Dismiss for lack of personal jurisdiction and *forum non conveniens*, the District Court made its decision based upon the then-pending discovery requests. Likewise, StudiVZ did not oppose Facebook’s request to continue the hearing on the personal jurisdiction portion of StudiVZ’s Motion to Dismiss based upon the existing discovery and the disputes related thereto. Had Facebook been upfront with the Court and StudiVZ and disclosed the fact that Facebook secretly planned to propound six additional sets of discovery (including more document demands to StudiVZ than had been propounded before) a few days after the Court issued its ruling, StudiVZ would have opposed Facebook’s request to continue even the personal jurisdiction portion of StudiVZ’s Motion to Dismiss, and StudiVZ believes that the Court would have ruled differently and would have denied all of the relief requested by Facebook. StudiVZ further objects to this RFA on the grounds that Facebook has failed to explain (1) why this RFA was not propounded

1 over four months ago (when Facebook propounded its other discovery), and (2) why
2 StudiVZ should have to respond to an RFA the response to which would have been
3 due long after the original hearing date of StudiVZ's Motion to Dismiss, which
4 hearing date was selected in consultation with Facebook so that Facebook would
5 have many months to take jurisdictional discovery.

6 DATED: March 4, 2009

GREENBERG GLUSKER FIELDS
CLAMAN & MACHTINGER LLP

8
9 By: 

10 STEPHEN S. SMITH (SBN 166539)
11 Attorneys for Defendant StudiVZ Ltd.
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PROOF OF SERVICE
CCP §1011, CCP §1013a(3)

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California.

I am over the age of 18 and not a party to the within action; my business address is 1900 Avenue of the Stars, Suite 2100, Los Angeles, California 90067-4590.

On March 4, 2009, I served the foregoing document described as **STUDIVZ LTD.'S RESPONSES TO FACEBOOK, INC.'S FIRST SET OF REQUESTS FOR ADMISSION** on the interested parties in this action

☒ by placing ☒ the **original** ☒ a true copy thereof enclosed in sealed envelopes addressed as follows:

Thomas Gray, Esq. (**ORIGINAL**)
tgray@orrick.com
Orrick, Herrington & Sutcliffe LLP
4 Park Plaza, Suite 1600
Irvine, CA 92614-2558

Attorneys for Plaintiff Facebook, Inc.

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BY U.S. MAIL:

☒ As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on March 4, 2009, at Los Angeles, California.

BY PERSONAL SERVICE:

☐ I delivered such envelope by hand to the offices of the addressee.

Executed on _____, at Los Angeles, California.

☒ (Fed) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Aaron B. Bloom


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8 Holtzbrinck Networks GmbH

9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION

13
14 FACEBOOK, INC.,

15 Plaintiff,

16 v.

17 STUDIVZ LTD., HOLTZBRINCK
NETWORKS GmbH,
18 HOLTZBRINCK VENTURES
GmbH, and DOES 1-25,

19 Defendants.
20
21

Case No. 5:08-CV-03468 JF

Assigned To: Honorable Jeremy Fogel

**HOLTZBRINCK NETWORKS
GmbH'S RESPONSES TO
FACEBOOK, INC.'S FIRST SET OF
REQUESTS FOR ADMISSION**

Complaint Filed: July 18, 2008

22
23 PROPOUNDING PARTY: FACEBOOK, INC.

24 RESPONDING PARTY: HOLTZBRINCK NETWORKS GmbH

25 SET NUMBER: ONE
26
27
28

I. GENERAL OBJECTIONS

A. Holtzbrinck Networks GmbH (“Networks”) objects to the Requests for Admission (“RFAs”) on the grounds that Facebook seeks the right to use evidence obtained in this action in the action pending between Facebook and StudiVZ in Germany (the “German Action”). It is improper under established law to use this lawsuit or this Court as vehicles to obtain discovery for use in a foreign case when that evidence is located outside the United States, as it is here. It is also inconsistent with the District Court’s form protective order.

B. Networks objects to the RFAs on the grounds that they seek discovery that is not reasonably related to pertinent disputed personal jurisdictional or *forum non conveniens* issues, which is improper given that there are currently pending motions to dismiss all defendants for lack of personal jurisdiction and *forum non conveniens*.

C. Networks objects to the RFAs to the extent that they would require violation of the privacy rights of its employees and its customers as embodied in German and European Union law, including but not limited to the German Constitution and the German Federal Data Protection Act (BDSG), the German Telecommunications Act (TKG), the German Tele Services Data Protection Act (TDDSG), the European Community Data Protection Directive 95/46/EC, Data Protection Directive for Electronic Communication 2002/58/EC and the E-Commerce Directive 2000/31/EC.

D. Networks objects to the RFAs on the grounds that “HOLTZBRINCK NETWORKS or HNG” is defined as “defendant Holtzbrinck Networks GmbH and its directors, officers, subsidiaries, predecessors, successors, assigns, agents,

1 servants, employees, investigators, attorneys, AND ALL other persons and entities
2 representing it acting on its behalf.” This definition is improperly overbroad
3 generally, and is particularly so given that the discovery purports to relate personal
4 jurisdiction, since in establishing jurisdiction discovery must be directed only at the
5 party over whom jurisdiction is being asserted.

6
7 E. Networks objects to the RFAs to the extent they seek information that
8 is protected from disclosure by the attorney-client privilege, the attorney work
9 product doctrine, the right of privacy and/or any other applicable privileges,
10 doctrines, or immunity from disclosure.

11
12 F. Networks further objects to the RFAs to the extent they attempt or
13 purport to impose obligations on Networks beyond those set forth in the Federal
14 Rules of Civil Procedure and the Hague Convention of 18 March 1970 on the
15 Taking of Evidence Abroad in Civil or Commercial Matters (“Hague Evidence
16 Convention”) as interpreted and enforced under German law. All definitions and
17 instructions will be treated as having no force or effect to the extent they purport to
18 impose obligations on Networks beyond those set forth in the Federal Rules of
19 Civil Procedure and the Hague Evidence Convention as interpreted and enforced
20 under German law.

21
22 **REQUEST FOR ADMISSION NO. 1:**

23 Admit that at the time YOU acquired an interest in STUDIVZ you were aware
24 of accusations by FACEBOOK that STUDIVZ was infringing FACEBOOK’S legal
25 rights, including, but not limited to, intellectual property rights.

26 **RESPONSE TO REQUEST FOR ADMISSION NO. 1:**

27 Networks hereby incorporates by reference the general objections set forth
28 above. Networks further objects to this RFA on the grounds that a plaintiff is not

1 entitled to take discovery on personal jurisdiction as a matter of right. In order to do
2 so, Facebook must either make a *prima facie* showing of jurisdiction over Networks,
3 or it must identify material jurisdictional issues that are in dispute. Facebook has
4 done neither. Networks further objects to this RFA on the grounds that there is no
5 definition of “YOU” despite plaintiff writing the word in all capital letters. Networks
6 further objects to this RFA on the grounds that, to the extent that the RFA is directed
7 to Holtzbrinck Networks GmbH, the definition of “HOLTZBRINCK NETWORKS
8 or HNG” is overly broad and unduly burdensome. Networks further objects to this
9 RFA on the grounds that it seeks information that is not relevant nor reasonably
10 calculated to lead to the discovery of admissible evidence. Networks further objects
11 to this RFA on the grounds that it is vague and ambiguous, and not limited, with
12 respect to the timeframe of any accusations by Facebook.

13 Networks further objects to this RFA on the grounds that it is moot. Namely,
14 Facebook has already filed its opposition to Networks’ motion to dismiss for lack of
15 personal jurisdiction and *forum non conveniens*, and these RFAs are specifically
16 identified as being “relating to personal jurisdiction.” In its request to continue the
17 hearings on that and other motions, Facebook asked the District Court to allow it to
18 file supplemental opposition papers with respect to both StudiVZ’s Motion to
19 Dismiss and the Holtzbrinck defendants’ Motion to Dismiss. (Docket No. 77 at
20 1:25-2:3; Docket No. 77-2). Because the District Court found that Facebook failed
21 to demonstrate any reason to continue the hearing as to the Holtzbrinck defendants
22 (Order at 2:15-17) (Docket No. 92), it denied Facebook’s request to file a
23 supplemental brief with respect to either of the Holtzbrinck defendants. (Order at
24 2:20-22) (Docket No. 92) (ruling that Facebook would only be “permitted to file a
25 supplemental opposition with respect to whether this Court has personal jurisdiction
26 over StudiVZ in light of any newly discovered material”).
27
28

1 **REQUEST FOR ADMISSION NO. 2:**

2 Admit that YOU have knowledge that STUDIVZ accessed the FACEBOOK
3 WEBSITE for commercial purposes.

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 2:**

5 Networks hereby incorporates by reference the general objections set forth
6 above. Networks further objects to this RFA on the grounds that a plaintiff is not
7 entitled to take discovery on personal jurisdiction as a matter of right. In order to do
8 so, Facebook must either make a *prima facie* showing of jurisdiction over Networks,
9 or it must identify material jurisdictional issues that are in dispute. Facebook has
10 done neither. Networks further objects to this RFA on the grounds that there is no
11 definition of “YOU” despite plaintiff writing the word in all capital letters. Networks
12 further objects to this RFA on the grounds that, to the extent that the RFA is directed
13 to Holtzbrinck Networks GmbH, the definition of “HOLTZBRINCK NETWORKS
14 or HNG” is overly broad and unduly burdensome. Networks further objects to this
15 RFA on the grounds that the phrase “commercial purposes” is vague and ambiguous,
16 and on the grounds that it is vague and ambiguous, and not limited, with respect to
17 timeframe. Networks further objects to this RFA on the grounds that it seeks
18 information that is not relevant nor reasonably calculated to lead to the discovery of
19 admissible evidence.

20 Networks further objects to this RFA on the grounds that it is moot. Namely,
21 Facebook has already filed its opposition to Networks’ motion to dismiss for lack of
22 personal jurisdiction and *forum non conveniens*, and these RFAs are specifically
23 identified as being “relating to personal jurisdiction.” In its request to continue the
24 hearings on that and other motions, Facebook asked the District Court to allow it to
25 file supplemental opposition papers with respect to *both* StudiVZ’s Motion to
26 Dismiss and the Holtzbrinck defendants’ Motion to Dismiss. (Docket No. 77 at
27 1:25-2:3; Docket No. 77-2). Because the District Court found that Facebook failed
28 to demonstrate any reason to continue the hearing as to the Holtzbrinck defendants

(Order at 2:15-17) (Docket No. 92), it denied Facebook’s request to file a supplemental brief with respect to either of the Holtzbrinck defendants. (Order at 2:20-22) (Docket No. 92) (ruling that Facebook would only be “permitted to file a supplemental opposition with respect to whether this Court has personal jurisdiction over StudiVZ in light of any newly discovered material”).

REQUEST FOR ADMISSION NO. 3:

Admit that YOU have knowledge that STUDIVZ accessed the FACEBOOK WEBSITE for the purpose of modeling at least one of the STUDIVZ WEBSITES after the FACEBOOK WEBSITE.

RESPONSE TO REQUEST FOR ADMISSION NO. 3:

Networks hereby incorporates by reference the general objections set forth above. Networks further objects to this RFA on the grounds that a plaintiff is not entitled to take discovery on personal jurisdiction as a matter of right. In order to do so, Facebook must either make a *prima facie* showing of jurisdiction over Networks, or it must identify material jurisdictional issues that are in dispute. Facebook has done neither. Networks further objects to this RFA on the grounds that there is no definition of “YOU” despite plaintiff writing the word in all capital letters. Networks further objects to this RFA on the grounds that, to the extent that the RFA is directed to Holtzbrinck Networks GmbH, the definition of “HOLTZBRINCK NETWORKS or HNG” is overly broad and unduly burdensome. Networks further objects to this RFA on the grounds that it is vague and ambiguous, and not limited, with respect to timeframe. Networks further objects to this RFA on the grounds that it seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Networks further objects to this RFA on the grounds that it is moot. Namely, Facebook has already filed its opposition to Networks’ motion to dismiss for lack of personal jurisdiction and *forum non conveniens*, and these RFAs are specifically

1 identified as being “relating to personal jurisdiction.” In its request to continue the
2 hearings on that and other motions, Facebook asked the District Court to allow it to
3 file supplemental opposition papers with respect to *both* StudiVZ’s Motion to
4 Dismiss and the Holtzbrinck defendants’ Motion to Dismiss. (Docket No. 77 at
5 1:25-2:3; Docket No. 77-2). Because the District Court found that Facebook failed
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7 (Order at 2:15-17) (Docket No. 92), it denied Facebook’s request to file a
8 supplemental brief with respect to either of the Holtzbrinck defendants. (Order at
9 2:20-22) (Docket No. 92) (ruling that Facebook would only be “permitted to file a
10 supplemental opposition with respect to whether this Court has personal jurisdiction
11 over StudiVZ in light of any newly discovered material”).

12
13 **REQUEST FOR ADMISSION NO. 4:**

14 Admit that YOU have knowledge of similarities between the FACEBOOK
15 WEBSITE and the STUDIVZ WEBSITES, including, but not limited to, visual
16 similarities, functional similarities, feature similarities, and layout similarities.

17 **RESPONSE TO REQUEST FOR ADMISSION NO. 4:**

18 Networks hereby incorporates by reference the general objections set forth
19 above. Networks further objects to this RFA on the grounds that a plaintiff is not
20 entitled to take discovery on personal jurisdiction as a matter of right. In order to do
21 so, Facebook must either make a *prima facie* showing of jurisdiction over Networks,
22 or it must identify material jurisdictional issues that are in dispute. Facebook has
23 done neither. Networks further objects to this RFA on the grounds that there is no
24 definition of “YOU” despite plaintiff writing the word in all capital letters. Networks
25 further objects to this RFA on the grounds that, to the extent that the RFA is directed
26 to Holtzbrinck Networks GmbH, the definition of “HOLTZBRINCK NETWORKS
27 or HNG” is overly broad and unduly burdensome. Networks further objects to this
28 RFA on the grounds that it is compound. Networks further objects to this RFA on

1 the grounds that the term “similarities” is vague and ambiguous, especially in the
2 context of social networking websites, which all have some level of similarity to one
3 another. Networks further objects to this RFA on the grounds that it is vague and
4 ambiguous, and not limited, with respect to timeframe. Networks further objects to
5 this RFA on the grounds that it seeks information that is not relevant nor reasonably
6 calculated to lead to the discovery of admissible evidence.

7 Networks further objects to this RFA on the grounds that it is moot. Namely,
8 Facebook has already filed its opposition to Networks’ motion to dismiss for lack of
9 personal jurisdiction and *forum non conveniens*, and these RFAs are specifically
10 identified as being “relating to personal jurisdiction.” In its request to continue the
11 hearings on that and other motions, Facebook asked the District Court to allow it to
12 file supplemental opposition papers with respect to both StudiVZ’s Motion to
13 Dismiss and the Holtzbrinck defendants’ Motion to Dismiss. (Docket No. 77 at
14 1:25-2:3; Docket No. 77-2). Because the District Court found that Facebook failed
15 to demonstrate any reason to continue the hearing as to the Holtzbrinck defendants
16 (Order at 2:15-17) (Docket No. 92), it denied Facebook’s request to file a
17 supplemental brief with respect to either of the Holtzbrinck defendants. (Order at
18 2:20-22) (Docket No. 92) (ruling that Facebook would only be “permitted to file a
19 supplemental opposition with respect to whether this Court has personal jurisdiction
20 over StudiVZ in light of any newly discovered material”).

21
22 **REQUEST FOR ADMISSION NO. 5:**

23 Admit that at the time YOU acquired an interest in STUDIVZ you were
24 aware of similarities between the FACEBOOK WEBSITE and the STUDIVZ
25 WEBSITES, including, but not limited to, visual similarities, functional similarities,
26 feature similarities, and layout similarities.

27 **RESPONSE TO REQUEST FOR ADMISSION NO. 5:**

28 Networks hereby incorporates by reference the general objections set forth


1 above. Networks further objects to this RFA on the grounds that a plaintiff is not
2 entitled to take discovery on personal jurisdiction as a matter of right. In order to do
3 so, Facebook must either make a *prima facie* showing of jurisdiction over Networks,
4 or it must identify material jurisdictional issues that are in dispute. Facebook has
5 done neither. Networks further objects to this RFA on the grounds that there is no
6 definition of “YOU” despite plaintiff writing the word in all capital letters. Networks
7 further objects to this RFA on the grounds that, to the extent that the RFA is directed
8 to Holtzbrinck Networks GmbH, the definition of “HOLTZBRINCK NETWORKS
9 or HNG” is overly broad and unduly burdensome. Networks further objects to this
10 RFA on the grounds that it is compound. Networks further objects to this RFA on
11 the grounds that the term “similarities” is vague and ambiguous, especially in the
12 context of social networking websites, which all have some level of similarity to one
13 another. Networks further objects to this RFA on the grounds that it is vague and
14 ambiguous, and not limited, with respect to timeframe. Networks further objects to
15 this RFA on the grounds that it seeks information that is not relevant nor reasonably
16 calculated to lead to the discovery of admissible evidence. Networks further objects
17 to this RFA on the grounds that it is vague and ambiguous, and not limited, with
18 respect to the timeframe of any alleged similarities.

19 Networks further objects to this RFA on the grounds that it is moot. Namely,
20 Facebook has already filed its opposition to Networks’ motion to dismiss for lack of
21 personal jurisdiction and *forum non conveniens*, and these RFAs are specifically
22 identified as being “relating to personal jurisdiction.” In its request to continue the
23 hearings on that and other motions, Facebook asked the District Court to allow it to
24 file supplemental opposition papers with respect to both StudiVZ’s Motion to
25 Dismiss and the Holtzbrinck defendants’ Motion to Dismiss. (Docket No. 77 at
26 1:25-2:3; Docket No. 77-2). Because the District Court found that Facebook failed
27 to demonstrate any reason to continue the hearing as to the Holtzbrinck defendants
28 (Order at 2:15-17) (Docket No. 92), it denied Facebook’s request to file a

1 supplemental brief with respect to either of the Holtzbrinck defendants. (Order at
2 2:20-22) (Docket No. 92) (ruling that Facebook would only be “permitted to file a
3 supplemental opposition with respect to whether this Court has personal jurisdiction
4 over StudiVZ in light of any newly discovered material”).

5 DATED: March 4, 2009

GREENBERG GLUSKER FIELDS
CLAMAN & MACHTINGER LLP

7
8 By: 
9 STEPHEN S. SMITH (SBN 166539)
10 Attorneys for Defendant Holtzbrinck
11 Networks GmbH
12
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23
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PROOF OF SERVICE
CCP §1011, CCP §1013a(3)

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California.

I am over the age of 18 and not a party to the within action; my business address is 1900 Avenue of the Stars, Suite 2100, Los Angeles, California 90067-4590.

On March 4, 2009, I served the foregoing document described as **HOLTZBRINCK NETWORKS GmbH'S RESPONSES TO FACEBOOK, INC.'S FIRST SET OF REQUESTS FOR ADMISSION** on the interested parties in this action

☒ by placing ☒ the **original** ☒ a true copy thereof enclosed in sealed envelopes addressed as follows:

Thomas Gray, Esq. (**ORIGINAL**)
tgray@orrick.com
Orrick, Herrington & Sutcliffe LLP
4 Park Plaza, Suite 1600
Irvine, CA 92614-2558

Attorneys for Plaintiff Facebook, Inc.

Gary E. Weiss, Esq. (**COPY**)
gweiss@orrick.com
Orrick, Herrington & Sutcliffe LLP
1000 Marsh Road
Menlo Park, CA 94025

BY U.S. MAIL:

☒ As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on March 4, 2009, at Los Angeles, California.

BY PERSONAL SERVICE:

☐ I delivered such envelope by hand to the offices of the addressee.

Executed on _____, at Los Angeles, California.

☒ (Fed) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Aaron B. Bloom

SIGNATURE

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WILLIAM M. WALKER (SBN 145559)
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Attorneys for Defendant
Holtzbrinck Ventures GmbH

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FACEBOOK, INC.,

Plaintiff,

v.

STUDIVZ LTD., HOLTZBRINCK
NETWORKS GmbH,
HOLTZBRINCK VENTURES
GmbH, and DOES 1-25,

Defendants.

Case No. 5:08-CV-03468 JF

Assigned To: Honorable Jeremy Fogel

**HOLTZBRINCK VENTURES
GmbH'S RESPONSES TO
FACEBOOK, INC.'S FIRST SET OF
REQUESTS FOR ADMISSION**

Complaint Filed: July 18, 2008

PROPOUNDING PARTY: FACEBOOK, INC.

RESPONDING PARTY: HOLTZBRINCK VENTURES GmbH

SET NUMBER: ONE

I. GENERAL OBJECTIONS

A. Holtzbrinck Ventures GmbH (“Ventures”) objects to the Requests for Admission (“RFAs”) on the grounds that Facebook seeks the right to use evidence obtained in this action in the action pending between Facebook and StudiVZ in Germany (the “German Action”). It is improper under established law to use this lawsuit or this Court as vehicles to obtain discovery for use in a foreign case when that evidence is located outside the United States, as it is here. It is also inconsistent with the District Court’s form protective order.

B. Ventures objects to the RFAs on the grounds that they seek discovery that is not reasonably related to pertinent disputed personal jurisdictional or *forum non conveniens* issues, which is improper given that there are currently pending motions to dismiss all defendants for lack of personal jurisdiction and *forum non conveniens*.

C. Ventures objects to the RFAs to the extent that they would require violation of the privacy rights of its employees and its customers as embodied in German and European Union law, including but not limited to the German Constitution and the German Federal Data Protection Act (BDSG), the German Telecommunications Act (TKG), the German Tele Services Data Protection Act (TDDSG), the European Community Data Protection Directive 95/46/EC, Data Protection Directive for Electronic Communication 2002/58/EC and the E-Commerce Directive 2000/31/EC.

D. Ventures objects to the RFAs on the grounds that “HOLTZBRINCK VENTURES, HVG, YOU or YOUR” is defined as “defendant Holtzbrinck Ventures GmbH and its directors, officers, subsidiaries, predecessors, successors,

1 assigns, agents, servants, employees, investigators, attorneys, AND ALL other
2 persons and entities representing it acting on its behalf.” This definition is
3 improperly overbroad generally, and is particularly so given that the discovery
4 purports to relate personal jurisdiction, since in establishing jurisdiction discovery
5 must be directed only at the party over whom jurisdiction is being asserted.
6

7 E. Ventures objects to the RFAs to the extent they seek information that
8 is protected from disclosure by the attorney-client privilege, the attorney work
9 product doctrine, the right of privacy and/or any other applicable privileges,
10 doctrines, or immunity from disclosure.
11

12 F. Ventures further objects to the RFAs to the extent they attempt or
13 purport to impose obligations on Ventures beyond those set forth in the Federal
14 Rules of Civil Procedure and the Hague Convention of 18 March 1970 on the
15 Taking of Evidence Abroad in Civil or Commercial Matters (“Hague Evidence
16 Convention”) as interpreted and enforced under German law. All definitions and
17 instructions will be treated as having no force or effect to the extent they purport to
18 impose obligations on Ventures beyond those set forth in the Federal Rules of Civil
19 Procedure and the Hague Evidence Convention as interpreted and enforced under
20 German law.
21

22 **REQUEST FOR ADMISSION NO. 1:**

23 Admit that at the time YOU acquired an interest in STUDIVZ you were aware
24 of accusations by FACEBOOK that STUDIVZ was infringing FACEBOOK’S legal
25 rights, including, but not limited to, intellectual property rights.

26 **RESPONSE TO REQUEST FOR ADMISSION NO. 1:**

27 Ventures hereby incorporates by reference the general objections set forth
28 above. Ventures further objects to this RFA on the grounds that a plaintiff is not

entitled to take discovery on personal jurisdiction as a matter of right. In order to do so, Facebook must either make a *prima facie* showing of jurisdiction over Ventures, or it must identify material jurisdictional issues that are in dispute. Facebook has done neither. Ventures further objects to this RFA on the grounds that the definition of “YOU” is overly broad and unduly burdensome. Ventures further objects to this RFA on the grounds that it seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Ventures further objects to this RFA on the grounds that it is vague and ambiguous, and not limited, with respect to the timeframe of any accusations by Facebook.

Ventures further objects to this RFA on the grounds that it is moot. Namely, Facebook has already filed its opposition to Ventures’ motion to dismiss for lack of personal jurisdiction and *forum non conveniens*, and these RFAs are specifically identified as being “relating to personal jurisdiction.” In its request to continue the hearings on that and other motions, Facebook asked the District Court to allow it to file supplemental opposition papers with respect to both StudiVZ’s Motion to Dismiss and the Holtzbrinck defendants’ Motion to Dismiss. (Docket No. 77 at 1:25-2:3; Docket No. 77-2). Because the District Court found that Facebook failed to demonstrate any reason to continue the hearing as to the Holtzbrinck defendants (Order at 2:15-17) (Docket No. 92), it denied Facebook’s request to file a supplemental brief with respect to either of the Holtzbrinck defendants. (Order at 2:20-22) (Docket No. 92) (ruling that Facebook would only be “permitted to file a supplemental opposition with respect to whether this Court has personal jurisdiction over StudiVZ in light of any newly discovered material”).

REQUEST FOR ADMISSION NO. 2:

Admit that YOU have knowledge that STUDIVZ accessed the FACEBOOK WEBSITE for commercial purposes.

RESPONSE TO REQUEST FOR ADMISSION NO. 2:

Ventures hereby incorporates by reference the general objections set forth above. Ventures further objects to this RFA on the grounds that a plaintiff is not entitled to take discovery on personal jurisdiction as a matter of right. In order to do so, Facebook must either make a *prima facie* showing of jurisdiction over Ventures, or it must identify material jurisdictional issues that are in dispute. Facebook has done neither. Ventures further objects to this RFA on the grounds that the definition of “YOU” is overly broad and unduly burdensome. Ventures further objects to this RFA on the grounds that the phrase “commercial purposes” is vague and ambiguous, and on the grounds that it is vague and ambiguous, and not limited, with respect to timeframe. Ventures further objects to this RFA on the grounds that it seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Ventures further objects to this RFA on the grounds that it is moot. Namely, Facebook has already filed its opposition to Ventures’ motion to dismiss for lack of personal jurisdiction and *forum non conveniens*, and these RFAs are specifically identified as being “relating to personal jurisdiction.” In its request to continue the hearings on that and other motions, Facebook asked the District Court to allow it to file supplemental opposition papers with respect to *both* StudiVZ’s Motion to Dismiss and the Holtzbrinck defendants’ Motion to Dismiss. (Docket No. 77 at 1:25-2:3; Docket No. 77-2). Because the District Court found that Facebook failed to demonstrate any reason to continue the hearing as to the Holtzbrinck defendants (Order at 2:15-17) (Docket No. 92), it denied Facebook’s request to file a supplemental brief with respect to either of the Holtzbrinck defendants. (Order at 2:20-22) (Docket No. 92) (ruling that Facebook would only be “permitted to file a supplemental opposition with respect to whether this Court has personal jurisdiction over StudiVZ in light of any newly discovered material”).

1 **REQUEST FOR ADMISSION NO. 3:**

2 Admit that YOU have knowledge that STUDIVZ accessed the FACEBOOK
3 WEBSITE for the purpose of modeling at least one of the STUDIVZ WEBSITES
4 after the FACEBOOK WEBSITE.

5 **RESPONSE TO REQUEST FOR ADMISSION NO. 3:**

6 Ventures hereby incorporates by reference the general objections set forth
7 above. Ventures further objects to this RFA on the grounds that a plaintiff is not
8 entitled to take discovery on personal jurisdiction as a matter of right. In order to do
9 so, Facebook must either make a *prima facie* showing of jurisdiction over Ventures,
10 or it must identify material jurisdictional issues that are in dispute. Facebook has
11 done neither. Ventures further objects to this RFA on the grounds that the definition
12 of “YOU” is overly broad and unduly burdensome. Ventures further objects to this
13 RFA on the grounds that it is vague and ambiguous, and not limited, with respect to
14 timeframe. Ventures further objects to this RFA on the grounds that it seeks
15 information that is not relevant nor reasonably calculated to lead to the discovery of
16 admissible evidence.

17 Ventures further objects to this RFA on the grounds that it is moot. Namely,
18 Facebook has already filed its opposition to Ventures’ motion to dismiss for lack of
19 personal jurisdiction and *forum non conveniens*, and these RFAs are specifically
20 identified as being “relating to personal jurisdiction.” In its request to continue the
21 hearings on that and other motions, Facebook asked the District Court to allow it to
22 file supplemental opposition papers with respect to *both* StudiVZ’s Motion to
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26 (Order at 2:15-17) (Docket No. 92), it denied Facebook’s request to file a
27 supplemental brief with respect to either of the Holtzbrinck defendants. (Order at
28 2:20-22) (Docket No. 92) (ruling that Facebook would only be “permitted to file a

1 supplemental opposition with respect to whether this Court has personal jurisdiction
2 over StudiVZ in light of any newly discovered material”).

3
4 **REQUEST FOR ADMISSION NO. 4:**

5 Admit that YOU have knowledge of similarities between the FACEBOOK
6 WEBSITE and the STUDIVZ WEBSITES, including, but not limited to, visual
7 similarities, functional similarities, feature similarities, and layout similarities.

8 **RESPONSE TO REQUEST FOR ADMISSION NO. 4:**

9 Ventures hereby incorporates by reference the general objections set forth
10 above. Ventures further objects to this RFA on the grounds that a plaintiff is not
11 entitled to take discovery on personal jurisdiction as a matter of right. In order to do
12 so, Facebook must either make a *prima facie* showing of jurisdiction over Ventures,
13 or it must identify material jurisdictional issues that are in dispute. Facebook has
14 done neither. Ventures further objects to this RFA on the grounds that the definition
15 of “YOU” is overly broad and unduly burdensome. Ventures further objects to this
16 RFA on the grounds that it is compound. Ventures further objects to this RFA on the
17 grounds that the term “similarities” is vague and ambiguous, especially in the context
18 of social networking websites, which all have some level of similarity to one another.
19 Ventures further objects to this RFA on the grounds that it is vague and ambiguous,
20 and not limited, with respect to timeframe. Ventures further objects to this RFA on
21 the grounds that it seeks information that is not relevant nor reasonably calculated to
22 lead to the discovery of admissible evidence.

23 Ventures further objects to this RFA on the grounds that it is moot. Namely,
24 Facebook has already filed its opposition to Ventures’ motion to dismiss for lack of
25 personal jurisdiction and *forum non conveniens*, and these RFAs are specifically
26 identified as being “relating to personal jurisdiction.” In its request to continue the
27 hearings on that and other motions, Facebook asked the District Court to allow it to
28 file supplemental opposition papers with respect to both StudiVZ’s Motion to

1 Dismiss and the Holtzbrinck defendants' Motion to Dismiss. (Docket No. 77 at
2 1:25-2:3; Docket No. 77-2). Because the District Court found that Facebook failed
3 to demonstrate any reason to continue the hearing as to the Holtzbrinck defendants
4 (Order at 2:15-17) (Docket No. 92), it denied Facebook's request to file a
5 supplemental brief with respect to either of the Holtzbrinck defendants. (Order at
6 2:20-22) (Docket No. 92) (ruling that Facebook would only be "permitted to file a
7 supplemental opposition with respect to whether this Court has personal jurisdiction
8 over StudiVZ in light of any newly discovered material").
9

10 **REQUEST FOR ADMISSION NO. 5:**

11 Admit that at the time YOU acquired an interest in STUDIVZ you were
12 aware of similarities between the FACEBOOK WEBSITE and the STUDIVZ
13 WEBSITES, including, but not limited to, visual similarities, functional similarities,
14 feature similarities, and layout similarities.

15 **RESPONSE TO REQUEST FOR ADMISSION NO. 5:**

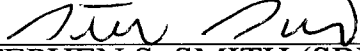
16 Ventures hereby incorporates by reference the general objections set forth
17 above. Ventures further objects to this RFA on the grounds that a plaintiff is not
18 entitled to take discovery on personal jurisdiction as a matter of right. In order to do
19 so, Facebook must either make a *prima facie* showing of jurisdiction over Ventures,
20 or it must identify material jurisdictional issues that are in dispute. Facebook has
21 done neither. Ventures further objects to this RFA on the grounds that the definition
22 of "YOU" is overly broad and unduly burdensome. Ventures further objects to this
23 RFA on the grounds that it is compound. Ventures further objects to this RFA on the
24 grounds that the term "similarities" is vague and ambiguous, especially in the context
25 of social networking websites, which all have some level of similarity to one another.
26 Ventures further objects to this RFA on the grounds that it seeks information that is
27 not relevant nor reasonably calculated to lead to the discovery of admissible
28 evidence. Ventures further objects to this RFA on the grounds that it is vague and

1 ambiguous, and not limited, with respect to the timeframe of any alleged similarities.

2 Ventures further objects to this RFA on the grounds that it is moot. Namely,
3 Facebook has already filed its opposition to Ventures' motion to dismiss for lack of
4 personal jurisdiction and *forum non conveniens*, and these RFAs are specifically
5 identified as being "relating to personal jurisdiction." In its request to continue the
6 hearings on that and other motions, Facebook asked the District Court to allow it to
7 file supplemental opposition papers with respect to both StudiVZ's Motion to
8 Dismiss and the Holtzbrinck defendants' Motion to Dismiss. (Docket No. 77 at
9 1:25-2:3; Docket No. 77-2). Because the District Court found that Facebook failed
10 to demonstrate any reason to continue the hearing as to the Holtzbrinck defendants
11 (Order at 2:15-17) (Docket No. 92), it denied Facebook's request to file a
12 supplemental brief with respect to either of the Holtzbrinck defendants. (Order at
13 2:20-22) (Docket No. 92) (ruling that Facebook would only be "permitted to file a
14 supplemental opposition with respect to whether this Court has personal jurisdiction
15 over StudiVZ in light of any newly discovered material").

16 DATED: March 4, 2009

GREENBERG GLUSKER FIELDS
CLAMAN & MACHTINGER LLP

19 By: 
20 STEPHEN S. SMITH (SBN 166539)
21 Attorneys for Defendant Holtzbrinck
22 Ventures GmbH
23
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28

PROOF OF SERVICE
CCP §1011, CCP §1013a(3)

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California.

I am over the age of 18 and not a party to the within action; my business address is 1900 Avenue of the Stars, Suite 2100, Los Angeles, California 90067-4590.

On March 4, 2009, I served the foregoing document described as **HOLTZBRINCK VENTURES GmbH'S RESPONSES TO FACEBOOK, INC.'S FIRST SET OF REQUESTS FOR ADMISSION** on the interested parties in this action

☒ by placing ☒ the **original** ☒ a true copy thereof enclosed in sealed envelopes addressed as follows:

Thomas Gray, Esq. (**ORIGINAL**)
tgray@orrick.com
Orrick, Herrington & Sutcliffe LLP
4 Park Plaza, Suite 1600
Irvine, CA 92614-2558

Attorneys for Plaintiff Facebook, Inc.

Gary E. Weiss, Esq. (**COPY**)
gweiss@orrick.com
Orrick, Herrington & Sutcliffe LLP
1000 Marsh Road
Menlo Park, CA 94025

BY U.S. MAIL:

☒ As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on March 4, 2009, at Los Angeles, California.

BY PERSONAL SERVICE:

☐ I delivered such envelope by hand to the offices of the addressee.

Executed on _____, at Los Angeles, California.

☒ (Fed) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Aaron B. Bloom


SIGNATURE

PROOF OF SERVICE